

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Brian P. Lucas,

Civil No. 03-5778 (DWF/SRN)

Plaintiff,

v.

**MEMORANDUM
OPINION AND ORDER**

United American Insurance Company,
Mark McAndrew, Daniel Shea, and
Andrew King,

Defendants.

Thomas Victor Seifert, Esq., and Vernon Jay Vander Weide, Esq., Head Seifert & Vander Weide, counsel for Plaintiff.

Ansis V. Viksnins, Esq., and David Lawrence Sasseville, Esq., Lindquist & Vennum, counsel for Defendants.

Introduction

The above-entitled matter is before the undersigned United States District Judge pursuant to Plaintiff's appeal of Magistrate Judge Susan Richard Nelson's order dated September 12, 2005, in which Magistrate Judge Nelson denied Plaintiff's Motion to Compel Discovery.

The Court must modify or set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. *See* 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Local Rule 72.1(b)(2). This is an "extremely deferential standard." *Reko v. Creative Promotions, Inc.*, 70 F. Supp. 2d 1005, 1007 (D. Minn. 1999). "A finding is 'clearly erroneous' when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm

conviction that a mistake has been committed.” *Chakales v. Comm’r of Internal Revenue*, 79 F.3d 726, 728 (8th Cir. 1996) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

The Court finds that Magistrate Judge Nelson’s September 12, 2005 order is consistent with this Court’s Order dated April 8, 2004. Magistrate Judge Nelson’s order is neither clearly erroneous nor contrary to law. Thus, the Court denies Plaintiff’s appeal and affirms Magistrate Judge Nelson’s order of September 12, 2005, in all respects.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Magistrate Judge Susan Richard Nelson’s Order dated September 12, 2005 (Doc. No. 56) is **AFFIRMED**.

Dated: October 12, 2005

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court